

PATENT

Confirmation No.: 8222

PETITION TO WITHDRAW HOLDING OF ABANDONMENT AND CONTINGENT
PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper responds to the Notice of Abandonment mailed May 21, 2008 in the above-identified application (the "Application"). Applicants hereby respectfully request reconsideration and withdrawal of the holding of abandonment in accordance pursuant to M.P.E.P. §711.03(c)I.B and 37 C.F.R. §1.181(a). "A petition to revive an abandoned application should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. §1.181(a) requesting withdrawal of the

holding of abandonment is the appropriate course of action, and such petition does not require a fee." M.P.E.P. §711.03(c)I.1

Alternatively, and contingent upon the dismissal by the Office of Applicants' Petition to Withdraw Holding of Abandonment, Applicants hereby submit a Petition to Revive Unintentionally Abandoned Application under 37 C.F.R. §1.137(b).

Petition to Withdraw Holding of Abandonment

The Notice of Abandonment of May 21, 2008 was issued because of "Applicant's failure to timely file a proper reply to the office letter mailed 23 October 2007". Assignee respectfully petitions for Withdrawal of Holding of Abandonment in view of the following:

- A. Based on a reasonable examination of Assignee's files and records, the person responsible for docketing incoming correspondence from the USPTO is unable to find any record of receipt of the Office action. See Declaration by Felisha Naylor, attached.
- B. The Private PAIR system of the USPTO shows that, in spite of having the correct correspondence address, the Office action mailed by the Office on October 23, 2007 was returned to the USPTO as "undelivered" on October 24, 2007, the day after mailing by the Office. Applicants respectfully submit that, for at least this reason, it should be clear that the Office action mailed October 23, 2007 was not received at the Correspondence Address of record.

Therefore, for the reasons set forth above, Assignee respectfully requests that the holding of Abandonment be WITHDRAWN and further, that the Office action originally mailed October 23, 2007, be re-mailed.

Contingent Petition to Revive Unintentionally Abandoned Application

Contingent on the dismissal of Assignee's Petition to Withdraw Holding of Abandonment, Assignee hereby respectfully petitions to revive the Application, and hereby states that the entire delay in filing the reply from the due date until filing of this petition was unintentional.

Conclusion

The Applicants respectfully solicit a call to the undersigned at (312) 775-8000 to resolve any issues, should the Commissioner or staff have any questions regarding this submission.

The Applicants believe that no fees are due. However, the Commissioner is hereby authorized to charge any fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Date: July 21, 2008

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/Kevin E. Borg/
Kevin E. Borg
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DECLARATION OF FELISHA NAYLOR

(1) I, Felisha Naylor, am currently employed at the law firm of McAndrews, Held & Malloy, Ltd., 500 West Madison - Suite 3400, Chicago IL 60661, as a patent prosecution paralegal.

(2) Among my job duties is the handling of mail received from the U.S. Patent and Trademark Office ("USPTO"). It is the standard procedure of our firm to date stamp correspondence received from the USPTO and electronically log a record of the correspondence into our electronic docketing system.

(3) I have reviewed our docketing records, and in particular, our records relating to Application Serial No. 10/672,654 (Our Attorney Docket No. 14781US02) (the "Application".) Our records do not include any record of receiving an Office action for the Application during the period from the mailing date of the Office action of October 23, 2007, until the receipt of the Notice of Abandonment mailed May 21, 2008.

(4) I only came to know of the issuance of the Office action mailed October 23, 2008 for the Application when I received a Notice of Abandonment for "Applicant's failure to timely file a proper reply to the office letter mailed 23 October 2007", issued May 21, 2008. Only upon receiving the Notice of Abandonment did I come to know of the outstanding Office action, issued October 23, 2007.

I hereby declare that all statements made of my own knowledge are true and all statements made on information and belief are believed to be true. I am also aware that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001).



Felisha S. Naylor

Date: 7/21/08